

AMENDMENT

Plaintiff's Name Charles R. Gorton
Inmate No. T-43446
Address CSP-LAC, B5-144L, P.O. Box-8457
Lancaster, CA 93539-8457

**ORIGINAL
FILED**

OCT 07 2005

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Charles R. Gorton
(Name of Plaintiff)

1:05-CV-00354-REC-DLB-P DEPUTY CLERK

2:05-CV-00465-DPL-PAN
(Case Number)

vs.

COMPLAINT

Civil Rights Act, 42 U.S.C. § 1983

C/O - Bick, SCC-III

(Names of all Defendants)

I. Previous Lawsuits (list all other previous or pending lawsuits on back of this form):

A. Have you brought any other lawsuits while a prisoner? Yes XX No

B. If your answer to A is yes, how many? one (1)

Describe previous or pending lawsuits in the space below.

(If more than one, use back of paper to continue outlining all lawsuits.)

Personal injury sustained while under Protective-Custody of C/O Bick.

1. Parties to this previous lawsuit:

Plaintiff Charles R. Gorton

Defendants C/O Bick, SCC-III

2. Court (if Federal Court, give name of District; if State Court, give name of County)

United States District Court, Eastern District of California

3. Docket Number (see CASE # above) 4. Assigned Judge /s/ Dennis L. Beck

5. Disposition (For example: Was the case dismissed? Was it appealed? Is it still pending?)

Pending

6. Filing date (approx.) March 31, 2005 7. Disposition date (approx.) Pending

RECEIVED

OCT 07 2005

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY
DEPUTY CLERK

II. Exhaustion of Administrative Remedies

A. Is there an inmate appeal or administrative remedy process available at your institution?

Yes xx No

B. Have you filed an appeal or grievance concerning **ALL** of the facts contained in this complaint?

Yes xx No

If your answer is no, explain why not N/A

C. Is the process completed?

Yes xx

If your answer is yes, briefly explain what happened at each level.

On 5/28/04 - I filed a formal complaint (Inmate Appeal CDC-602) and
requested monetary damages of \$1,300,000 dollars, for personal injury
incurred while under protective custody of a Correctional Officer.
(see Exhibit -) This Appeal was rejected on 6/2/04, by...(Continued)

No
N/A

If your answer is no, explain why not.

NOTICE:

Pursuant to the Prison Litigation Reform Act of 1995, "[n]o action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." 42 U.S.C. § 1997e(a). If there is an inmate appeal or administrative remedy process available at your institution, you may not file an action under Section 1983, or any other federal law, until you have first completed (exhausted) the process available at your institution. You are required to complete (exhaust) the inmate appeal or administrative remedy process before filing suit, regardless of the relief offered by the process. Booth v. Churner, 532 U.S. 731, 741 (2001); McKinney v. Carey, 311 F.3d 1198, 1999 (9th Cir. 2002). **Even if you are seeking only money damages and the inmate appeal or administrative remedy process does not provide money, you must exhaust the process before filing suit. Booth, 532 U.S. at 734.**

III. Defendants

(In Item A below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item B for the names, positions and places of employment of any additional defendants.)

- A. Defendant C/O Bick is employed as Cal. State Correctional Officer at Sierra Conservation Center, SCC-3
- B. Additional defendants N/A

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

On Thursday, 05/13/04, I was placed under Protective Custody by the 3rd Watch On-Duty Correctional Officer (C/O Bick) at CSP-SCC-3, Housing Unit - Gym/T6, at approx. 1815 hours. C/O Bick, escorted me into the Gym Custody Office for confinement and protection. C/O Bick then walked out of the office, leaving the Custody Office door open. It was during that time that Inmate Pina, T-44230, rushed into the office and attacked me. C/O Bick made the remark, "I did the best I could to protect him!" I hold C/O Bick responsible for this attack and the injuries I've sustained. I consider the actions of C/O Bick reckless, with malicious intent and deliberate indifference Under Color of State Law. I also believe his actions were motivated by a desire to encourage 'Prison-Justice', because of my committed offense. I hereby request that a formal investigation be ordered by the Attorney Generals office, in regard to this matter.

V. Relief.

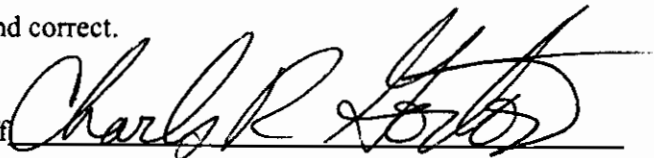
(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

I am requesting monetary damages for personal injury and physical/emotional pain and suffering, in the amount of \$1,300,000 dollars (U.S.), plus punitive damages. I also request criminal charges to be filed against Officer Bick, for reckless endangerment, with deliberate indifference Under Color of State Law.

I declare under penalty of perjury that the foregoing is true and correct.

Date September 24, 2005

Signature of Plaintiff



Part II (continued; Item-C)

Appeals Coordinator J. Tennison (SOC-III), stating "Compensation is outside the scope of the appeals process," and that I had to delete that part of Section-B. (see Exhibits - A1:A4).

On 6/20/04 I received this rejection back and resubmitted on 6/20/04.

On 6/29/04 I received this appeal back from the Informal level of Appeal, with the issued Log# SCC-04-00728. This appeal was partially granted on 6/14/05 (my request to be sent to either CMC or Lancaster State Prison. However, my request to discover the accused C/O's name was left unanswered.

Note: This partial approval was 'Pre-Dated - 07/21/04.' Yet it was received on 6/29/04.

On 7/5/05 I resubmitted this Appeal to the First Level Appeal. (see Exhibit - B1, Part-D)

This action was assigned on 7/9/04. (see Exhibit - , Part-E)

According to the California Code of Regulations (CCR), Title-15, section - 3084.6(b)(1 & 2) The department response shall be responded to and completed within 10-working days for the 'Informal Level' and 30-working days for the First Level'. Hence, this would make the required completed date 08/19/04, as indicated on Exhibit -B2, Part-D.

However, not only was this appeal grossly overdue by 42 days, a total of 72 days, but the CC-II respondent "Andrade) neglected to dictate any response whatsoever.

Because there is a 6-month maximum time limit required to file a claim with the California Board of Control, I was forced to submit this claim without having received a response from this Appeal Process (required by the Board of Control), I submitted a claim on 11/2/04. The Date-Stamp, reflects that this claim was received on 11/8/04 (see Exhibits - C1:C9).

Note: Appeal Number SCC-04-00728, was delivered to me on 11/15/04 at CSP-LAC (B5-229L) See Date-Stamp "To Appellant"

In conclusion, because of the gross negligence of CDC to comply with their own guidelines, Plaintiff did everything in his power to complete this Appeal-Process and is thus justified in having completed this required process.

H I S T O R Y

1 Introduction: It is the belief of the Plaintiff that Institutional-Negligence
2 played a role which lead up to this attack.

3 On February 1, 2002 - The presiding Judge for the Riverside County
4 Superior Court, sentenced the Plaintiff to a 16 year prison sentence
5 (Case# RIF092588). The Judge ordered that the Plaintiff be immediately
6 transferred to California Mens Colony (CMC) to serve his sentence under
7 Protective Custody. The Judge stated that court recognized the Plaintiff to
8 be a High-Risk Suicide based upon mental history. (see Motion for Discovery)
9 The Plaintiff was then taken into custody and placed in Protective Custody at
10 the Riverside County Detention Center, while awaiting transfer.

11 On February 4, 2002 - Plaintiff was transported to Delano State Prison
12 Under Protective-Custody. Upon arrival at Delano Prison Reception Center,
13 Plaintiff requested Protective-Custody and was temporary placed in a P.C. holding
14 Cell. The reception Sergeant (Name unknown; see Motion for Discovery), denied
15 the Plaintiff's request. Why? This Sergeant stated that Plaintiff didn't
16 qualify and was placed in General-Population (housing D4-206).

17 During the Plaintiff's entire reception process, I felt constantly under
18 threat, which lead to my thoughts of suicide. Additionally, Plaintiff repeatedly
19 requested to be placed under Protective-Custody to his assigned CC1 Counselor,
20 Psychiatric Evaluator and unit Correctional Officer (names unknown; see Motion
21 for Discovery). However, in each case his request was ignored. He was told
22 he didn't meet the criteria to qualify for P.C. This caused the Plaintiff undue
23 mental stress, extreme anxiety, feelings of helplessness.

24 On or about February 24, 2002 - Plaintiff received notice of transfer
25 to Centinela State Prison, (level-4, Maximum Security). The Plaintiff again
26 made multiple to his CC1 Counselor, advising him of the Judges order. This

1 Counselor stated that the Judge has no jurisdiction to instruct California
2 Department of Corrections (CDC), and that I didn't meet the qualifications for
3 Protective Custody.

4 On or about March 1, 2002 - Plaintiff was transferred to Centinela State
5 Prison. Upon boarding the bus, Plaintiff requested Protective Custody and was
6 placed in a p.C. holding cage for transport. Upon arrival at Centinela Prison,
7 Plaintiff was placed in an isolation cell and interviewed by the R & R Sergeant.
8 The Plaintiff requested to be placed under Protective-Custody, but this Sergeant
9 (name unknown; see Motion for Discovery), informed the Plaintiff that, "There
10 isn't any such thing here and Plaintiff better get use to it. Welcome to Hell!"
11 Hence, this Sergeant denied his request. Why?

12 Plaintiff was then assigned to General-Population housing (Building C2-116
13 medium-A Custody level. A1A unassigned). Even though it is standard practice
14 for State Prisons to segregate unclassified Inmates from those who have been
15 Classified by the Classification Committee, Plaintiff was housed with a known
16 violent Inmate, affiliated Skin-Head gang member. Why?

17 Upon entering the cell, this Inmate (name unknown; see Motion for
18 Discovery), demanded to see Plaintiff's 'Paper-Work', to reveal his offense.
19 When the Plaintiff refused, this Inmate threatened the plaintiff's life.
20 Plaintiff then advised the building Correctional-Officer of the incident and
21 that told this C.O. (name unknown; see Motion for Discovery) Plaintiff felt
22 in fear for his life. This C.O. then interviewed Plaintiff in privacy, in which
23 the Plaintiff explained that he was in fear for his life because of his committed
24 offence, and that because he refused to show his paperwork, this Inmate had
25 threatened his life. Plaintiff was then moved to a different cell in that
26 same building (C2-117), with another Inmate with a violent history.

1 However, because Plaintiff had repeatedly requested Protective-Custody,
2 Plaintiff was transferred to Administrative-Segregation (Ad-Seq) (C2-121).
3 Then because the Plaintiff was experiencing thoughts of Suicide, he was
4 transferred to Suicide-Watch (C2-148).

5 On or about April 3, 2002 - Plaintiff was classified as Triple C.M.S.
6 (CCCMS) and prescribed Psychotropic medication.

7 On or about May 10, 2002 - Plaintiff was transferred to Vacaville State
8 Prison. Acute Mental Ward, Department of Mental Health, for psychiatric
9 evaluation. Plaintiff was diagnosed with deep depression and high anxiety
10 disorder, by Dr. Ryan.

11 On or about June 15, 2002 - Plaintiff was admitted into Vacaville's 'Day-
12 Treatment Program, Housing A2-228.

13 On or about June 20, 2002 - Plaintiff was informed by an Inmate/Patient
14 Thomas, that an A-2 Staff-Member had disclosed to him the details of the
15 Plaintiff's offense. Inmate Thomas correctly disclosed these details and then
16 threatened Plaintiff with great bodily injury, because Plaintiff was a "Child-
17 molester". and that Inmate Thomas 'Kills' Child-Molesters.

18 Plaintiff immediately reported this incident to his Psychologist
19 Dr. Viesti, who then reported it to the Program Supervisor (name unknown; see
20 Motion for Discovery). Both Staff members assured the Plaintiff that no harm
21 would occur and not to worry about Inmate Thomas. This on going threat of
22 physical harm caused me (Plaintiff) to have even more stress and anxiety, for
23 I was truly in fear for my life.

24 On or about July 2002 - Inmate Thomas again approached the Plaintiff
25 and stated that he was going to 'Kill' the Plaintiff because he was a 'Rat'.
26 The Plaintiff again reported this incident immediately to the Senior MTA on

1 duty (name unknown; see Motion for Discovery). This SMIA then reported the
2 incident to the on-duty Sergeant (name unknown; see Motion for Discovery), who
3 interviewed the Plaintiff. The Sergeant advised the Plaintiff, that if anything
4 happened they would deal with it at that time, but since Inmate Thomas had not
5 made any physical attacks, he could only 'Talk' to Inmate Thomas. Plaintiff
6 was then released to return back to his housing.

7 Shortly after this incident, (date unknown; see Motion for Discovery),
8 Plaintiff was purposely moved into the same dorm as Inmate Thomas, even with
9 his repeated threats of bodily harm. That night there was a verbal altercation.
10 Plaintiff as moved from A-2 to A-3 the next morning. Inmate Thomas was
11 transferred to a different prison.

12 On or about September 2003 - Plaintiff was discharged from the
13 Vacaville Day-Treatment Program. Plaintiff was given the options to either
14 be transferred to 'Extended Out-Patient Treatment' (EOP) or back to the main-line
15 Plaintiff requested to stay at Vacaville Main-Line, because he desired to get
16 a job and have positive-active programming; EOP does not offer any programming.

17 On March 16, 2004 - Plaintiff was assaulted by Inmate Verducci, V-07295.
18 The Plaintiff was struck twice in the face and refused to engage in mutual
19 combat or to defend himself, and therefore did not receive any disciplinary
20 action. Inmate Verducci is affiliated with the White Skin-Head Gang.

21 On March 19, 2004 - Plaintiff filed an 'Inmate-Appeal' CDC-602, concerning
22 this unprovoked attack, requesting the Department of Corrections file Assault
23 charges against Inmate Verducci. This appeal was denied and 'Screened-Out'
24 by Appeals Coordinator 'Cry'. (see attached Exhibits - D1:D2)

25 On March 21, 2004 - Plaintiff was again assaulted by a member of the
26 White Skin-head gang member in the Chowhall. This incident occurred in front

1 of the attending Chowhall Security. C/O Forsythe, who refused to intervene.

2 That morning after this incident, Plaintiff wrote an emergency 602 appeal.
3 concerning C/O Forsythe's blatant refusal to intervene. I gave this appeal
4 directly to my Floor-Officer C/O Brita, who instructed me to hand carry it
5 to the program office. (see Exhibits E1 - E3)

6 On March 25, 2002 - Plaintiff was interviewed by Sgt. DeMars, concerning
7 these repeated assaults. Sgt. DeMars stated that Plaintiff was a threat to
8 institutional safety and security, and placed Plaintiff into Protective-Custody
9 as well as placed in Ad-Seq. (S-308). (see Exhibit - F1)

10 On April, 2004 - Plaintiff attended an Inmate Classification Committee
11 Hearing, and was informed of the necessity to transfer him to another prison.
12 under a 'Non-Adverse Transfer.' The committee recommended Plaintiff be sent
13 to a Sensitive Needs Yard Prison, either New Folsom or Mule Creek State Prison.
14 Plaintiff requested an alternative choice of either CMC or Mule Creek. This
15 request was accepted by the Committee. (see Exhibit - F2)

16 On April 27, 2004 - Plaintiff received notification of transfer to Sierra
17 Conservation Center (level-3), a known gang active Main-line Prison. The
18 Plaintiff immediately sent an Emergency 602 to Associate Warden Craford,
19 concerning his distress about this transfer and his fear for his own safety.
20 However, this Appeal was ignored. (Exhibits G1-G3) This is therefore
21 another example of how the California Department of Corrections placed my life
22 in jeopardy of bodily injury, mental distress and complete neglect towards
23 my personal safety.

24 On May 13, 2004 - Plaintiff was transferred to Sierra Conservation Center,
25 Main-Line and assigned to dorm housing within the Gym. This action was in
26 blatant disregard to CDC Title-15; OCR §3377.2(16)(c)(3)(D). Because I had
27 been sentenced in excess of 15 years. Plaintiff was Classified as 'Closed-B.'

1 which requires housing within a 2-man cell. Therefore this decision must have
2 been an intentional act. Plaintiff therefore holds the officer(s) responsible
3 for this act also responsible for the attack which took place. (see Motion
4 for Discovery).

5 Upon Plaintiff's arrival at the Gym housing, he was immediately approached
6 by the White Skin-Head gang Inmates to show his 'Paper-work.' Because I didn't
7 have any paperwork, I told them that I was a 'Child-Molester.'

8 Immediately after this, Plaintiff reported this incident to the On-Duty
9 Correctional Officer (presumably known as C/O Bick, see Motion for Discovery).
10 C/O Bick was standing by the front entrance door of the inside of the Gym at
11 the time Plaintiff reported the incident.

12 Plaintiff requested Protective-Custody, stating, "I can't stay here, my
13 life is in danger." C/O Bick demanded an explanation as to the Plaintiff's
14 request, at which time the Plaintiff explained the events that had just occurred.
15 Also Plaintiff stated that he had told these gang-members that he was a 'Child-
16 Molester.'

17 C/O Bick grabbed the Plaintiff's arm and stated, "You told them that?
18 You just couldn't wait to start some 'SHIT' could you?" C/O Bick then quickly
19 escorted the Plaintiff with urgency, into the Gym Custody Office. C/O Bick
20 instructed the Plaintiff, "You stand there and don't move!" C/O Bick, then
21 made a phone call to an unknown party. (see Motion for Discovery)

22 Present in the Custody Office was C/O Bick, Plaintiff and an unknown Inmate
23 assumed to be the Building Clerk. (see Motion for Discovery) C/O Bick, after
24 making the phone call, then walked out of the Custody Office leaving the door
25 Partially open.

26 It was during this period of time when Plaintiff was left in an unprotected
27 state, that Inmate Pina (T-44230), a White Skin-Head gang member, took the

1 opportunity to rush inside the Custody Office and attack the Plaintiff. (see
2 Exhibit - H)

3 Inmate Pina struck the Plaintiff several times in the head repeatedly
4 and then rushed out of the office. The unknown Inmate/Clerk who had been
5 present during this attack, eye-witnessed the attack, before he also ran out
6 of the office. (see Motion for Discovery)

7 Plaintiff suffered a 1" inch laceration above his right eye brow, broke
8 nose, black eye, emotional distress, pain and suffering. (Exhibits C5 - C7)

9 While this attack was in process, one of the On-Duty Officers pushed the
10 remote alarm. (see Motion for Discovery)

11 Shortly after Inmate Pina ran out of the Custody Office, C/O Bick, as
12 well as several other officers, (see Motion for Discovery), rushed into the
13 Custody Office. C/O Bick stated to the other Officers, "I did my BEST to
14 PROTECT HIM!"

15 The Plaintiff was then escorted to the Medical Office, where he received
16 several sutures to close up the laceration, and was examined for his injuries.
17 Plaintiff was also interviewed by some unknown Officers concerning the attack.
18 This interview was 'VIDEO-TAPED.'

19 Plaintiff was then escorted to SCC-3 Ad-Seg, where he was refused proper
20 medical treatment, and denied access for his required prescribed orthotics,
21 that are necessary to relieve extreme pain and protect against further injuries.
22 (see Exhibits I1 - I5)

23 On July 21, 2004 - Plaintiff was transferred to Lancaster State Prison
24 a Sensitive Needs Yard prison.
25
26
27

INMATE/PAROLEE
APPEAL FORM
CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1.

1.

2.

2.

JUN 02 2004

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
GORTON, C	T43446	AD-SEG	2T-1214

A. Describe Problem:

On Thursday, May 13 2004, at about 1800 hours I was taken into Protective Custody by the on duty Correctional Officer and was placed into the Building #6 Custody Office. The Correctional Officer remained with me while he made a phone call. But then he personally left the office leaving me alone with another G.P. Inmate who was sitting at the office desk. Additionally the C/O did not fully close the door nor did he lock it. It was during this

If you need more space, attach one additional sheet

B. Action Requested:

period of time, leaving me completely To receive \$1.3 million dollars in personal injury & psychological injury damages. Also to be sent to a Protective Custody Yard as was recommended by I.C.C. - GME and I.C.C. - SCC-II.

Inmate/Parolee Signature:

Chris R. Gorton

Date Submitted:

5/28/04

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: _____

Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed _____

CDC Appeal Number: _____

Board of Control form BC-1E, Inmate Claim



Screening For:
CDC 602 Inmate/Parolee Appeals
CDC 1824 Reasonable Modification or Accommodation Request

RE: ScreenOut

June 2, 2004

GORTON, T43446
2T1 00000000140L

Log Number: SCC-X-

(Note: Log numbers are not assigned to screen out appeals, or informal level appeals)

The enclosed documents are being returned to you for the following reasons:

A request for compensation is outside the scope of the appeals process. You need to delete that part of Section B. Also, if you have a complaint regarding CMF you need to send them a separate appeal.

J. Tennison
Appeals Coordinator
Sierra Conservation Center

NOTE: Failure to follow instruction(s) will be viewed as non-cooperation and your appeal will be automatically dismissed pursuant to CCR 3084.4(d). This screening decision may not be appealed. If you believe this screen out is in error, please return this form to the Appeals Coordinator with an explanation of why you believe it to be in error, and supporting documents. You have only 15 days to comply with the above directives.

PERMANENT APPEAL ATTACHMENT – DO NOT REMOVE

INMATE/PAROLEE APPEAL FORM

CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1. _____

1. _____

2. _____

2. _____

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NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
GORTON, C	T43446	AD-SEG	2T-1214

A. Describe Problem: ON Thursday, May 13 2004, at about 1800 hrs,
I was placed under protective custody by the on-duty
correctional officer (C/O), inside the Building #6
Custody office. The C/O remained with me while he
made all phone call. But then the C/O left the office
leaving me alone inside the office with another
G/P Inmate who was sitting at the desk, also C/O
left the office door unlocked & open. During this period
of time, the C/O left me completely.

If you need more space, attach one additional sheet.

B. Action Requested: Pursuant of "Green Out" Notification June 2, 04 concerning
request for compensation, I reserve the right to file a claim with
the California State Board of Control. I also request transfer to
CMC, due to Smoking Needs & Family Hardship for visiting (cont)

Inmate/Parolee Signature: Cho R Gorton Date Submitted: 5/28/04

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

Staff Signature: _____ Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: _____ Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed

CDC Appeal Number:

Board of Control form BC-1E, Inmate Claim



GORTON, C. T43446 2T-1214.

Continued From Section A:

unprotected, giving Inmate PINA (T-44230) the opportunity to rush into the office and attack me.

I consider the action by this correctional Officer to be reckless with Deliberate Indifference and Malice towards the insurance of my personal safety (15CCR § 3271).

I believe his actions of Gross Negligence were more motivated by the ~~his~~ knowledge and nature of my committed offense. This was also demonstrated by his comment to me saying, "you couldn't wait to cause some shit could you!"

Therefore I hold the C/O responsible for this attack resulting in my physical & mental injuries, because he failed to provide proper safety measures to ensure my personal safety.

Respectfully,

Charles R. Gorton

Continued From Section B:

I hereby request a copy of the accident report as well as the legal name and employee number of the on-duty C/O who took me into Protective

**INMATE/PAROLEE
APPEAL FORM**
CDC 602 (12/87)

NOV 09 2004

JUN 01 2004

Location: Institution/Parole Region

Log No.

Category

1. SCC1. 04-00728IL

2. _____

2. _____

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

LAC

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
<u>GORTON, C</u>	<u>T43446</u>	<u>AD-SEG</u>	<u>2T-T27</u>

A. Describe Problem: ON THURSDAY, MAY 13 2004, AT APPROX 1800hrs, I WAS PLACED UNDER PROTECTIVE CUSTODY BY THE ON-DUTY C/O, AND ~~PLACED~~ ESCORTED INTO THE CUSTODY OFFICE, INSIDE BUILDING #6. THIS C/O REMAINED WITH ME WHILE HE MADE A PHONE CALL. AFTER THE PHONE CALL THIS C/O WALKED OUT OF THE OFFICE, LEAVING THE DOOR OPEN AND LEAVING ME UNPROTECTED, THERE WAS ANOTHER GIP INMATE SITTING AT A DESK. IT WAS DURING THIS PERIOD OF TIME THAT INMATE PINA (T-442) TOOK THIS OPPORTUNITY TO RUSH INTO THE OFFICE AND ATTACK ME.

If you need more space, attach one additional sheet.

I SUFFERED A 1 1/4" LASERATION ABOVE MY RIGHT

B. Action Requested: I REQUEST THAT I RECEIVE A COPY OF THE ACCIDENT REPORT TO POSITIVELY IDENTIFY THE NAME OF THIS C/O, AND TO BE IMMEDIATELY TRANSFERRED TO AN S & Y PRISON: CMC OR LANCASTER SO THAT I CAN GET VISITS FROM MY FAMILY.

Inmate/Parolee Signature: Charles R. GortonDate Submitted: 6/20/04C. INFORMAL LEVEL (Date Received: 7/2/04)Staff Response: PARTIALLY GRANTED

YOU WERE ENDORSED LAC-III SNY ON 6-14-04. I READ THE CDC-115 ISSUED TO INMATE PINA (T44230). THERE IS NO INCIDENT/ACCIDENT REPORT.

Staff Signature: C. Thompson CCTI(A) 7/22/04

Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

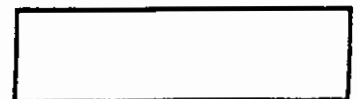
I REQUEST TO KNOW THE NAME OF THE C/O WHO TOOK ME INTO CUSTODY PRIOR TO BEING ATTACKED AND TO BE IMMEDIATELY TRANSFERRED TO AN SNY PRISON: CMC OR LANCASTER SO I CAN GET VISITS FROM MY FAMILY.

Signature: Charles R. GortonDate Submitted: 7/5/04

Note: Property/Funds appeals must be accompanied by a completed

CDC Appeal Number: _____

Board of Control form BC-1E, Inmate Claim



First Level

☐ Granted

☒ P. Granted

☐ Denied

☐ Other

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned:

JUL 09 2004

Due Date:

AUG 19 2004

Interviewed by:

Staff Signature:

J. Andrade

Title:

CC II
AW

Date Completed:

10/12/04

Division Head Approved:

Returned

Signature:

Title:

Date to Inmate:

OCT 18 2004

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

Signature:

Date Submitted:

Second Level

☐ Granted

☐ P. Granted

☐ Denied

☐ Other

G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned:

Due Date:

☐ See Attached Letter

Signature:

Date Completed:

Warden/Superintendent Signature:

Date Returned to Inmate:

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

Signature:

Date Submitted:

For the Director's Review, submit all documents to: Director of Corrections

P.O. Box 942883

Sacramento, CA 94283-0001

Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION:

☐ Granted

☐ P. Granted

☐ Denied

☐ Other

☐ See Attached Letter

Date:

INMATE APPEAL

6/20/04

CHARLES GORTON, T43446, 2T-121

PAGE 2

PART A: EYE BROW, A BROKEN NOSE AND TISSUE DAMAGE
CONTINUED TO THE RIGHT EYE (BLACK EYE)

I CONSIDER THE ACTIONS BY THIS C/O,
LEAVING ME UNPROTECTED IN AN UNSECURED
OFFICE, AFTER HAVING PLACED ME UNDER PROTECTIVE
CUSTODY, TO BE RECKLESS WITH DELIBERATE
INDIFFERENCE UNDER COLOR OF STATE LAW,
TOWARDS THE ASSURANCE OF MY PERSONAL
SAFETY (15 CCR § 3271) AND (8th & 14th AMENDMENTS
TO THE FEDERAL CONSTITUTION: RIGHT OF PRISONER TO
BE ~~REASON~~ REASONABLY PROTECTED FROM THREAT OF VIOLENCE
BY FELLOW PRISONERS [VOSEBERG V SOLEM (8TH CIR 1988)
845 F.2d 763, 109 S.Ct. 313])

I HOLD THIS C/O RESPONSIBLE FOR THIS ATTACK
RESULTING IN MY PHYSICAL & ~~AND~~ PSYCHOLOGICAL
INJURIES.

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

CDC 1858 (2/97)

RIGHTS AND RESPONSIBILITY STATEMENT

The California Department of Corrections has added departmental language (shown inside brackets, in non-boldface type) for clarification purposes.

Pursuant to Penal Code 148.6, anyone wishing to file an allegation of misconduct by a departmental peace officer must read, sign and submit the following statement:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER [this includes a departmental peace officer] FOR ANY IMPROPER POLICE [or peace] OFFICER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' [or inmates'/parolees'] COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN [or inmate/parolee] COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE. [An inmate/parolee who makes a complaint against a departmental peace officer, knowing it is false, may be issued a serious disciplinary rule violation, in addition to being prosecuted on a misdemeanor charge.]

COMPLAINANT'S PRINTED NAME CHARLES R. GORTON	COMPLAINANT'S SIGNATURE <i>Charles R. Gorton</i>	DATE SIGNED 6/20/04	
INMATE/PAROLEE PRINTED NAME CHARLES GORTON	INMATE/PAROLEE'S SIGNATURE <i>Charles R. Gorton</i>	CDC NUMBER T43446	DATE SIGNED 6/20/04
RECEIVING STAFF'S PRINTED NAME	RECEIVING STAFF'S SIGNATURE	DATE SIGNED	

DISTRIBUTION:

ORIGINAL -

Public - Institution Head/Parole Administrator -

Inmate/Parolee - Attach to CDC form 602

Employee - Institution Head/Parole Administrator

COPY - Complainant

Memorandum**(EXHIBIT - B5)****Date :** September 12, 2004**To :** Inmate Gorton
T43446**From :** Sierra Conservation Center, Jamestown, CA, 95327**Subject: SCC APPEAL LOG# SCC-X-04-00728**
FIRST LEVEL RESPONSE**APPEAL DECISION: Partially Granted**

APPEAL ISSUE: You are appealing the fact that you feel the action of CDC staff to be reckless towards your personnel safety, and request an immediate transfer.

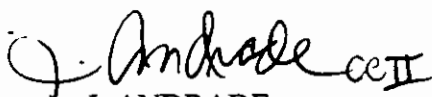
ACTION REQUESTED: You are requesting the name of the C/O who took you into custody prior to being attacked, and an immediate transfer to a sensitive needs prison.

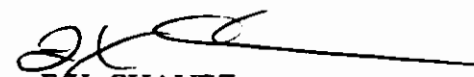
APPEAL RESPONSE: Mr. Gorton your CDC 602 and its attachments have been reviewed and an investigation into this matter has been completed. You were interviewed by CCI Teaney at LAC State Prison on 8/19/04. He informed you of the CDC 602 issues and you stated you wanted to continue the appeal process. In your informal and your first level 602 responses, you request a transfer to a sensitive needs yard and that has been granted on 7-21-04. You were transferred to LAC S.P. sensitive needs. You also request a copy of the incident report and the name of the C/O who placed you in the office prior to being attacked. You claim you were left in the office unprotected. You came to the office indicating you had a problem, you entered the office and waited there until the C.O could go retrieve the supervisor and at no time did the C/O place you into custody, you were not handcuffed. The C/O could not have anticipated your attack prior to the arrival of a supervisor. You had not identified an enemy nor that an enemy situation existed. At no time were you left in a vulnerable situation where you could not have defended yourself.

All documents regarding this incident are contained in your C-file and you could request another copy from your counselor at C.S.P. Lancaster.

Based on the above information, your appeal is **Partially Granted** at the First Level in that you have been placed SNY @ C.S.P Lancaster.

If you are dissatisfied with this decision, you may appeal to the next level by following the instructions on your appeal form.


J. ANDRADE
Correctional Counselor II
Tuolumne Division


F.X. CHAVEZ
Associate Warden
Tuolumne Division

NOV 08 2004

G

550742

MAILROOM

(EXHIBIT - C1)

Section 1: Claimant Information

Name of Claimant CHARLES R. GORTON, T43446

LSP, B5-229, 44750-60th Street West, Lancaster CA () NONE

Mailing Address

City

93536

State

Zip Code

Section 2: Claim Information

Is the claim filed on behalf of a minor? ☒ Yes ☐ No. If yes, please indicate Relationship to the minor. Date of birth of the minor

Name of State Agency against which this claim is filed:

Cal. Dept. of Corrections

If the amount exceeds \$10,000, indicate type of civil case:

☒ 1989 Federal Case ☐ Limited Civil Case ☐ Non-Limited Civil Case

Describe the specific damage or injury incurred as a result of the incident:

1" laceration above right eye brow,
broken nose, black eye, emotional
distress and pain still suffering.
Blatant violation of my
Federal Civil Rights.
See Exhibits A, B, C

Incident Date

Month 5 Day 13 Yr 04 \$300,000.00

Dollar Amount of Claim

Explain how the dollar amount claimed was computed:
(Attach three copies of the supporting documentation for the
amount claimed with this form): \$50,000.00 per

person responsible at the time
of the incident.

Location of the incident (If applicable, include street address, city,
or county, highway number, post mile number and direction of travel.)

Sierra Conservation Center (SCC II)
5150 O'Byers Ferry Road
Jamestown, CA 95327

Preferred Hearing Location (if an appearance is necessary)

☒ Sacramento ☒ Los Angeles
☐ Oakland ☐ San Diego

Explain the circumstances that led to the alleged damage or injury. State all facts that support your claim against the State of California, or why you believe the State is responsible for the alleged damage, or injury. If known, provide the name(s) of the State employee(s) who allegedly caused the injury, damage or loss. (If more space is needed, please attach additional sheets.)

On Thursday, 05/13/04, I was transferred from San Quentin State Prison to SCC-III yard. Because of my custody status (Class-B, 15 CCR § 3377.2 (1)(c)(3)(D)), I am required to be housed in a 2-man cell. But for reasons I believe are directly related to my crime, the Warden assigned me to dorm housing in the Hyatt (Building T-6).

Upon arrival I was immediately by White Skin-Head Inmates to show my "Paperwork". Because I don't have any paperwork, I was threatened to reveal my crime. I told them I was a Child Molester. I immediately reported this incident to the on-duty (continued)

*15 additional
attachment

PAGE - 2

Explanation of Circumstances

(EXHIBIT - C2)

(Continued) Correctional Officer, who's name I can only assume is C/O Bick (see Exhibit A, "Escorted By") and requested protective custody. He asked why and after I explained the events, he grabbed me by the arm and said to me, "You just couldn't wait to start some 'SHIT', could you?"

C/O Bick then immediately escorted me to into the Sym Custody Office and instructed me to "stand there and don't move!" He then made a phone call.

Inside the office, sitting at a desk was a white inmate doing paperwork. I can only assume he was the Clerk. C/O Bick did not instruct him to vacate the office, thus witnessed this incident.

Then, for reasons I believe were malicious intent, C/O Bick walked out of the office

GOVERNMENT CLAIM FORM

CHARLES GORTA

PAGE - 3

Explanation of Circumstances

(Continued) leaving the office door open and hence leaving me unprotected. It was during this period of time that Inmate Pina (T-44230), a white skin-head, took this opportunity to rush inside the Custody office and attacked me. (See Exhibit - D).

I consider the actions of C/O Bick, reckless with malicious intent and deliberate indifference, under color of State Law. It was his responsibility to ensure my personal safety. (15 CCR § 3271) I believe his actions were motivated by a desire to encourage "prison justice" because of my committed offence.

On 05/28/04, I filed a formal complaint against C/O Bick, whom I identified as the on-duty C/O. But it was "screened-out", rejected on grounds that I had requested personal monetary compensation for injuries

GOVERNMENT CLAIM FORM

CHARLES GORTON

PAGE - 4

Explanation of Circumstances

(Continued) sustained. (See Exhibit E & F)

I resubmitted my Complaint and was issued a CDC-602 Log # - SCC-X-04-00728. (Exhibit G & Ha, Hb). But to this date it has never been returned for me to continue the appeal Process to exhaust all remedies. Therefore I have fulfilled the Claim Form requirement guideline.

Due to the dereliction of responsibilities to ensure my personal safety as outlined above, I hereby hold responsible the following CDC Personnel:

- ① The On-Duty C/O who is responsible for my personal injuries, whom I can only assume is C/O Bick.
- ② The On-Duty Sergeant at the time of said attack,
- ③ Lieutenant Espinosa, ④ Captain Fox, ⑤ Chief Deputy Warden and ⑥ the Acting Warden of ACC. III.

MEDICAL REPORT OF INJURY
OR UNUSUAL OCCURRENCE

Case 1:05-cv-00354-DLB

Document 15

Filed 10/07/05

Page 25 of 49

(EXHIBIT - A)

(EXHIBIT - C5)

NAME OF INSTITUTION Sic	FACILITY/UNIT 3yd	REASON FOR REPORT (circle) USE OF FORCE	INJURY UNUSUAL OCCURRENCE	ON THE JOB INJURY PRE AD/SEG ADMISSION	DATE 15 MAR
THIS SECTION FOR INMATE ONLY	NAME LAST Gorton	FIRST Charles	CDC NUMBER T43446	HOUSING LOC. 6T-	NEW HOUSING LOC.
THIS SECTION FOR STAFF ONLY	NAME LAST	FIRST	BADGE #	RANK/CLASS	ASSIGNMENT/RDOs
THIS SECTION FOR VISITOR ONLY	NAME LAST	FIRST	MIDDLE	DOB	OCCUPATION
HOME ADDRESS		CITY		STATE	ZIP
				HOME PHONE	

PLACE OF OCCURRENCE Gym 6T+	DATE/TIME OF OCCURRENCE 1815 - 6T/Gym	NAME OF WITNESS(ES)
TIME NOTIFIED 1820	TIME SEEN 1825	ESCORTED BY Yo Bick
MODE OF ARRIVAL (circle) AMBULATORY		LITTER
WHEELCHAIR		AGE
RACE		SEX

BRIEF STATEMENT IN SUBJECT'S WORDS OF THE CIRCUMSTANCES OF THE INJURY OR UNUSUAL OCCURRENCE

- I was physically attacked by another inmate
- No Pain nose (RT) upper eye
#2, 9, 11, 16

INJURIES FOUND?	YES / NO	
Abrasion/Scratch	<input checked="" type="checkbox"/>	1
Active Bleeding	<input checked="" type="checkbox"/>	2
Broken Bone	<input checked="" type="checkbox"/>	3
Bruise/Discolored Area	<input checked="" type="checkbox"/>	4
Burn	<input checked="" type="checkbox"/>	5
Dislocation	<input checked="" type="checkbox"/>	6
Dried Blood	<input checked="" type="checkbox"/>	7
Fresh Tattoo	<input checked="" type="checkbox"/>	8
Cut/Laceration/Slash	<input checked="" type="checkbox"/>	9
O.C. Spray Area	<input checked="" type="checkbox"/>	10
Pain	<input checked="" type="checkbox"/>	11
Protrusion	<input checked="" type="checkbox"/>	12
Puncture	<input checked="" type="checkbox"/>	13
Reddened Area	<input checked="" type="checkbox"/>	14
Skin Flap	<input checked="" type="checkbox"/>	15
Swollen Area	<input checked="" type="checkbox"/>	16
Other	<input checked="" type="checkbox"/>	17
psych R	<input checked="" type="checkbox"/>	18
CCC MS	<input checked="" type="checkbox"/>	19

O.C. SPRAY EXPOSURE? YES / NO

DECONTAMINATED? YES / NO

Self-decontamination instructions given? YES / NO

Refused decontamination? YES / NO

Q 15 min. checks

Staff issued exposure packet? YES / NO

RN NOTIFIED/TIME

PHYSICIAN NOTIFIED/TIME

TIME/DISPOSITION

REPORT COMPLETED BY/TITLE (PRINT AND SIGN)

BADGE #

RDOs

1840 - Custody - T43446-S

Ingalls R.N. - Ingalls R.

0

S.

(Medical data is to be included in progress note or emergency care record filed in (JHR))

(EXHIBIT - B)

(EXHIBIT - C6)

DATE	TIME	
5-13-04		<p>⑤ Presents via man down</p> <p>Has laceration (RT) supra orbital ridge -</p> <p>⑥ SPO₂ 99° P. 84 resp 12 -</p> <p>T. 99° 112/78 -</p> <p>Has 3-4 cm laceration (RT) supra orbital ridge -</p> <p>Is alert oriented co-operative -</p> <p>states he needs to be honest to people + is telling about his committing offense -</p> <p>states CCCMS status 5 R @ present PERLA.</p> <p>a) location of skin -</p> <p>CCCMS 1/2 -</p> <p>b) MO for skin closure -</p> <p>ingalls</p>
5/17/04		<p>4/6 y.o.</p> <p>⑤ Hit in face to fist, cut above</p> <p>allergic (R) eye. No loss of consciousness</p> <p>⑥ 1" cut above (R) eye. alert</p> <p>PERLA. Neuro grossly intact</p> <p>⑦ Location (R) lower forehead</p> <p>⑧ Cleansed, closed - 5-4-0 Sutures</p> <p>⑨ keeps clean dry.</p>
INSTITUTION	HOUSING UNIT	CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH
6	SCS	Gorton, Charles
		T 43446

INTERDISCIPLINARY PROGRESS NOTES

Order Date	Time	Problem #	Physician's Order and Medication (Orders must be dated, timed, and signed.)
5/13/04			<p>allergic cough</p> <p>(1) Nuture removal 6 days</p> <p>(2) Tylenol # now, repeat Q6° pm x 480</p> <p>Wittwer</p> <p>noted 5-13-04 20-20</p> <p>Ingalls</p>

ALLERGIES:

codeine

INSTITUTION

sec

BOOM/WINC

$$6T \rightarrow 2T$$

Confidential
client information
See W & I Code, Sections 4514 and
5328

[illegible]

Gorton, C

T43446

- 4-30.58

CDC 7221 (2/00)
STATE OF CALIFORNIA



STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD

GOVERNMENT CLAIMS DIVISION
P O BOX 3035
Sacramento, California 95812-3035
Toll Free Number: 1-800-955-0045
Fax Number: (916) 323-5768
Internet: www.boc.ca.gov

KAREN MCGAGIN
Executive Officer

FRED AGUIAR
Secretary
State and Consumer Services Agency
Chairperson

STEVE WESTLY
State Controller
State Controller's Office
Board Member

MICHAEL A. RAMOS
San Bernardino County District Attorney
Board Member

Charles R Gorton T43446
44750 60th St W
Lancaster, CA 93536.

November 19, 2004

RE: Claim G550742 for Charles R Gorton, T43446
Tort claim for Incomplete, Late App. Needed

Dear Charles Gorton,

The Victim Compensation and Government Claims Board (Board) received your claim on November 03, 2004.

On August 17, 2004, the law was changed to require a \$25 filing fee for government claims. The new law affects all claims received on or after August 17, 2004. We cannot take action on your claim, until we receive the \$25 filing fee. The \$25 fee will be returned to you if your claim is paid.

Please send us a check or money order in the amount of \$25 made payable to the State of California. Write your claim number on the check or envelope and send it in the enclosed envelope. If you are unable to pay the filing fee, you can ask for a "Filing Fee Waiver Request". You must complete the request and return it in order for us to consider granting you a filing fee waiver. Call us toll-free at 1-800-955-0045 or visit our web page to get a copy of the form.

In addition to the filing fee, we also need additional information in order to continue working on your claim. Please provide the following information:

Any claim relating to wrongful death, personal injury, personal property damage, or growing crops must be presented within six months of the date of action, which resulted in the claim.

Since your claim was presented to the Board more than six months from the date of incident, it will be returned for not being presented within six months after the event or occurrence as required by law. See Sections 901 and 911.2 of the Government Code. If the claim is not presented within the time allowed by law, no action will be taken.

Your only recourse at this time is to apply without delay to the Victim Compensation and Government Claims Board for leave to present a late claim. See Sections 911.4 to 912.2, inclusive, and Section 946.6 of the Government Code. Under some circumstances, leave to present a late claim will be granted. See Section 911.6 of the Government Code.

IMPORTANT NOTICE:

In order for tort claims to be considered complete, the above referenced questions must be answered in writing within six months of the original date of incident (see Government Code Section 901 and 911.2). If you respond later than six months, but prior to one year from the original date of incident, you must apply without delay for leave to present a late claim (Government Code Sections 911.2 through 911.4, inclusive, 946.6). The Board has no jurisdiction over tort claims presented more than one year from the original date of incident.

If you have any questions, please feel free to contact us at (800) 955-0045 or write to the above address. Please indicate your claim number when calling or writing.

(EXHIBIT - C 9)

6 January, 2005

Victim Compensation and Gov. Claims Board
Government Claims Division
P.O. Box 3035
Sacramento, CA 95812-3035

Subj: Late Claim Explanation
Re: Claim # G550742

Dear Sir/Ma'am:

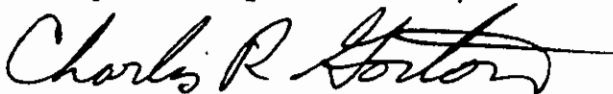
The reason for this claim being late is due to the stipulated requirement to exhaust all possible remedies through the CDC-602 appeals process. To this date I still have not received any response from the Second-Level of appeal. Therefore, in an effort to satisfy the six month requirement for filing, I submitted said referenced claim. Also note that according to Title-15 regulations CCR §3084.6.(b)(3), the second level response shall be completed within 20 working days, or 30 working days if first level is waived pursuant to section §3084.5.(a)(3).

As per your date stamp, Nov. 8, 2004, this claim was received within the six month requirement. Notwithstanding, the claim form provided to me by the Lancaster State Prison legal library, was not the current claim form and instructions. Therefore, I was not aware of the new \$25.00 fee. Hence, your notification of late claim.

Also, due to the time needed to process the attached Certified Inmate Trust Account and now having received it, I am able to fully satisfy all requested documentation to submit this claim.

Should you require any further documentation, please let me know.

Respectfully submitted,



Charles R. Gorton, T43446
L.S.P., B5-229
44750 - 60th Street West
Lancaster, CA 93536

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

INMATE/PAROLEE APPEAL FORM

Location: Institution/Parole Region

Log No.

Category

1. _____

1. _____

2. _____

2. _____

9410 Level
Assault and Battery
3-16-04

You may appeal any policy, action or decision which has a significant adverse effect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
GORTON C.	T43446	OSRT - AIA	H2134

A. Describe Problem: ON 3/16/04 AT APPROX. 1945 HOURS AN INMATE (WHITE) ATTACKED ME IN AN UNPROVOKED ALTERCATION. THIS INMATE STRUCK ME TWO TIMES ON THE LEFT SIDE OF MY FACE AND EYE. I WAS WEARING MY PRESCRIPTION GLASS AT THE TIME OF THE ATTACK. MY GLASS WERE BROKEN AS A RESULT. THIS IS MY REQUEST TO FILE FORMAL ASSAULT & BATTERY CHARGES AGAINST THIS INMATE, AND REPAIR OR REPLACEMENT

If you need more space, attach one additional sheet.

OF MY EYE GLASSES WITH SAME EQUAL QUAL.

B. Action Requested: I here by request that on my behalf CDC forward this complaint for a DA referral filing charges against this inmate. I also request monetary compensation for pain & suffering, as well as repairs for my eye glass.

Inmate/Parolee Signature: Charles R. GortonDate Submitted: 3/19/04

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

RECEIVED

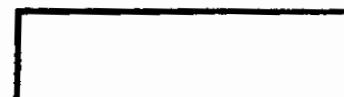
Signature: _____

Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number: _____

MAK 10 2004
SOLIS
INMATE CLAIM



Inmate/Parolee Appeal Rejection Form

C.M.F. Appeals Office

cdc form 695

To: GORTON T43446 H2134
Name Number Housing

Your Appeal is Being Rejected for the following reason(s)

1. ☒ The Action or Decision being appealed is not within the jurisdiction of the department.
2. ☐ You have submitted a duplicate appeal on the same issue.
3. ☐ You are appealing an action not yet taken.
4. ☐ You have not attempted to resolve the problem at the informal level.

LEGAL
ACTION OF
INMATE

(Obtain an informal response by sending your appeal directly to:)

- ☐ The Property Officer ☐ Your Counselor ☐ Unit Staff ☐ Mail Room Staff
☐ Your Prior Institution ☐ Trust Office ☐ The Medical Clinic ☐ Records Analyst
☐ Staff Member(s) referred to:
☐ Other _____

5. ☒ You have not adequately completed the CDC 602 form or attached the proper documents.
☐ Attach a copy of the COMPLETED CDC 115 which shows the Hearing Officer's decision.
☐ Attach or sign & date a Peace Officer's complaint form.
☒ Sign & date your appeal.

Other: Section B Action requested

6. ☐ Pursuant to amended CCR 3084.6 (Effective 2-26-97) you have exceeded the 15 working days time limit for submitting/resubmitting an appeal.
7. ☐ Pursuant to amended CCR 3084.1 (Effective 2-26-97) you have not reasonably demonstrated your appeal issue to have adversely affected your welfare.
8. ☐ Abuse of the appeal process: ☐ Excessive filing (no more than one appeal per a seven calendar day. ☐ Inappropriate statements. An appeal containing false information, profanity, or obscene language shall be rejected per CCR 3084.4(b). ☐ Excessive verbiage. Appeal cannot be understood or is obscured by pointless verbiage or voluminous unrelated documentation per CCR 3084.4(c).
9. ☐ You may not submit an appeal on behalf of another inmate.
10. ☐ Your requested action has been granted at the _____ level and no further action is required.

Instructions: TO FILE CHARGE ON ANOTHER INMATE IS NOT WITHIN THE
SCOPE OF JURISDICTION OF THE
APPEAL PROCESS

M. Cuy. CC II
Appeals Coordinator

Date 3/8/04

THIS IS A PERMANENT DOCUMENT
DO NOT REMOVE THIS FORM FROM THIS APPEAL

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

INMATE/PAROLEE APPEAL FORM

Location: Institution/Parole Region

Log No.

Category

1. _____

1. _____

2. _____

2. _____

You may appeal any policy, action or decision which has a significant adverse effect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
GORTON C.	T43446	AIA-OSRT	H213U

A. Describe Problem: *This morning during morning chow, I was sitting at a table (4th ROW IN, 4th Table/EAST). I was in plain view of C/O - Forsythe, who was the attending C/O. One of the skin head inmates, who's name I do not know but is part of the same group of inmates who attacked me on 3/16/04. This inmate was attempting to provoke a fight with me, so I got up and sat at a different table. The inmate followed me and sat at that table again attempting to provoke a fight. C/O - Forth Forsythe*

If you need more space, attach one additional sheet.

B. Action Requested: _____

Inmate/Parolee Signature: _____

Date Submitted: _____

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

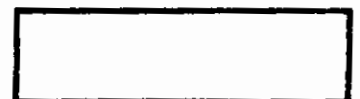
Signature: _____

Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed

CDC Appeal Number: _____

Board of Control form BC-1E, Inmate Claim



T43446

(EXHIBIT - E2)

continued - stood near the exit door and witnessed this entire circumstance, but failed to put an end to this harassment.

I charged tables three times in an attempt to avoid a physical altercation with this inmate, but each time this inmate followed me. And in the end took a swing at me, which I was able to duck.

This is the only prison I know of where there is only one or two custody officers to attend as much as 50-100 inmates in the Chow hall.

Moreover, I count C/O-Forsyth's lack of responsibility to intervene and prevent such occurrences as Carter careless and reckless, encouraging an environment of hostility. He has no business wearing that uniform if he is going to look the other direction and allow inmates to jeopardize the safety of me and other inmates.

Additionally I count the actions of the Warden to allow the Chow halls to be supervised by 1 or 2 correctional officers

C/O to guard the exit door and 1 C/O to assist in food serving as gross negligence for the supervision of 50+ inmates. And to provide a safe environment for inmates to eat in some place with safety.

~~that~~ Since my transfer to the main line I have personally witnessed and been a + numerous acts of ~~violence~~ violence which I could have been prevented if there ~~were~~ was proper supervision and direction by correctional officers. With out this, the chow halls are nothing more than an encouraged war zone.

(EXHIBIT - F1)

DISTRIBUTION:
WHITE - CENTRAL FILE
BLUE - INMATE (2ND COPY)
GREEN - ASUCANYON - WARDEN
PINK - HEALTH CARE MGR
GOLDENROD - INMATE (1ST COPY)

INMATE'S NAME

GORTON, C.

CDC NUMBER

T-43446

REASONS FOR PLACEMENT (PART A)

- ☒ PRESENTS AN IMMEDIATE THREAT TO THE SAFETY OF SELF OR OTHERS
☐ JEOPARDIZES INTEGRITY OF AN INVESTIGATION OF ALLEGED SERIOUS MISCONDUCT OR CRIMINAL ACTIVITY
☒ ENDANGERS INSTITUTION SECURITY ☐ UPON RELEASE FROM SEGREGATION, NO BED AVAILABLE IN GENERAL POPULATION

DESCRIPTION OF CIRCUMSTANCES WHICH SUPPORT THE REASON(S) FOR PLACEMENT:

On Thursday, March 25, 2004, you are being moved from H-213U to S-308 and placed on Administration Segregation (Ad-Seg) status. Specifically, you were a victim of a battery in the CMF Main Dining Facility. During an interview of you by Correctional Sergeant G. De Mars, you stated that you were battered because you were disrespecting the "whites" in the facility. You further stated that after the incident in the Dining Facility "white" inmates approached you on a number of occasions. On one of these occasions you indicated another unidentified "white" inmate attempted to strike you in the face but hit you in the neck. GORTON is a participant in the MHSDS at the CCCMS Level of Care. GORTON is not a Clark or DPP PARTICIPANT. GORTON'S reading level is above 4.0. The 128-C'S dated 03-25-04, reflect medical and psychiatric clearance for placement in Ad-Seg.

☐ CONTINUED ON ATTACHED PAGE (CHECK IF ADDITIONAL) ☐ IF CONFIDENTIAL INFORMATION USED, DATE OF DISCLOSURE: / /

DATE OF ASU PLACEMENT 3/25/04	SEGREGATION AUTHORITY'S PRINTED NAME J. FASSEN	SIGNATURE <i>[Signature]</i>	TITLE LT.
DATE NOTICE SERVED 3-25-04	TIME SERVED 1151	PRINTED NAME OF STAFF SERVING ASU PLACEMENT NOTICE J. A. DEMARS	SIGNATURE <i>[Signature]</i>
INMATE REFUSED TO SIGN		INMATE SIGNATURE <i>[Signature]</i>	CDC NUMBER T43446

ADMINISTRATIVE REVIEW (PART B)

The following to be completed during the initial administrative review by Captain or higher by the first working day following placement

STAFF ASSISTANT (SA)		INVESTIGATIVE EMPLOYEE (IE)	
STAFF ASSISTANT NAME	TITLE	INVESTIGATIVE EMPLOYEE'S NAME	TITLE
ASSIGNED CASEWORKER	CC II		
IS THIS INMATE:			
LITERATE?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	EVIDENCE COLLECTION BY IE UNNECESSARY	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
FLUENT IN ENGLISH?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	DECLINED ANY INVESTIGATIVE EMPLOYEE	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
ABLE TO COMPREHEND ISSUES?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	ASU PLACEMENT IS FOR DISCIPLINARY REASONS	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
FREE OF MENTAL HEALTH SERVICES DELIVERY SYSTEM NEEDS?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DECLINED 1ST INVESTIGATIVE EMPLOYEE ASSIGNED	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
DECLINING FIRST STAFF ASSISTANT ASSIGNED?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
<input type="checkbox"/> NOT ASSIGNED		<input type="checkbox"/> NOT ASSIGNED	

INMATE WAIVERS

- ☐ INMATE WAIVES OR DECLINES INTERVIEW WITH ADMINISTRATIVE REVIEWER ☒ INMATE WAIVES RIGHT TO 72 HOURS PREPARATION TIME

☒ NO WITNESSES REQUESTED BY INMATE

INMATE SIGNATURE

DATE

3/26/04

WITNESSES REQUESTED FOR HEARING

WITNESS NAME	TITLE/CDC NUMBER	WITNESS NAME	TITLE/CDC NUMBER
WITNESS NAME	TITLE/CDC NUMBER	WITNESS NAME	TITLE/CDC NUMBER

DECISION: ☐ RELEASE TO UNIT/FACILITY ☒ RETAIN PENDING ICC REVIEW ☐ DOUBLE CELL ☒ SINGLE CELL PENDING ICC

REASON FOR DECISION:

Retain pending Unit II investigation,
ASU warranted for safety of TM & Institution

ADMINISTRATIVE REVIEWER'S PRINTED NAME LIZARRAGA, J.	TITLE FAC. CAPT.	DATE OF REVIEW 3/26/04	TIME 1630	ADMINISTRATIVE REVIEWER'S SIGNATURE <i>[Signature]</i>
CORRECTIONAL ADMINISTRATOR'S PRINTED NAME (if necessary)		CORRECTIONAL ADMINISTRATOR'S CO-SIGNATURE (if necessary)		DATE OF REVIEW

STATE OF CALIFORNIA
California Medical FacilityDEPARTMENT OF CORRECTIONS
CDC 128-G (REV 10/85)

CDC #: T-43446 NAME: GORTON HOUSING: S-308
CUSTODY: MED AR to MAX R PS: 43/III ASSIGNMENT: AD/SEG
COMMENTS: EPRD 9/09/15 CAT: CCCMS WG/PG: A1/A to D1/D EFF 3/25/04

COMMITTEE ACTION: INITIAL AD/SEG REV./ANNUAL, REFER TO CSR RX RETAIN AD/SEG STATUS PEND NON-ADVERSE TX, ENEMY CONCERNS W/WHITE I/M POPULATION, ISOLATED TO CMF AND ICC REVIEW. ESTABLISH CUSTODY TO MAX R, WG/PG D1/D, EFF. 3/25/04 AND ASSIGN SMALL MANAGEMENT YARD. RX UPON TX MED AR, "S" TIME FOR PERIOD 3/25/04 TO REASSIGNMENT, A1/A EFF. 5/23/02, ADVISED BEHAVIORAL AND PROGRAM EXPECTATIONS WHILE HOUSED IN AD/SEG.

Subject made a personal appearance before Unit III ICC for Initial AD/SEG Review/Annual, acknowledged having received 72 hours notice and is prepared to proceed. Committee notes subject is a participant in the Mental Health Service Delivery System at the CCCMS level of care, therefore Correctional Officer T. Forsythe, was assigned as staff assistant and is present. Committee notes per CDC 128-C's dated 3/25/04, subject was medically and psychiatrically cleared for AD/SEG placement. Committee notes CDC 114D dated 3/25/04, was reviewed and due process rights were observed. Committee also notes CDC 114D order was reviewed, by Captain J. Lizarraga within 24 hours per CCR 3337. Committee notes subject confirms that he did receive copies of all pertinent documents.

On March 25, 2004, subject was placed into AD/SEG, per CDC 114D dated 3/25/04. Specifically you were the victim of a battery in the CMF Main Dining Facility. During an interview by Correctional Sergeant Demars, you stated that you were battered because you were disrespecting the "Whites," in the facility. You further stated that after the incident in the dining facility, "White," inmates approached you on a number of occasions. On one of these occasions you indicated another unidentified "White," inmate attempted to strike you in the face, but hit you in the neck. Based on this information you have been deemed a threat to the safety and security of the institution, therefore you will remain on AD/SEG status pending administrative review.

Subject stated that he is unable to identify the white inmates, of which he discussed with Sgt. Demars. Subject added that he has now learned the prison code of separation between the races, however the lesson has come a bit late, because the whites have it in their heads that I disrespected them by talking to black inmates. Subject requested a transfer to CMC-E with alternate of MCSP. Based on the above noted information, committee notes inmate Verducci, V-07295, has been identified as having struck him in the dining hall and is documented as an enemy. Committee also acts to recommend a non-adverse transfer to an institution in which subject can re-integrate back into the population. Committee acknowledged CDC 128B, authored by Sergeant G. Demars and act to refer the case to CSR recommending a non-adverse transfer. Committee acts to recommend CMC-E/III CCCMS with alternate MCSP/III CCCMS. Committee also recommends upon transfer subject is eligible for MED AR, A1/A eff. 5/23/02. Committee notes subject's AD/SEG placement is non-adverse in nature and act to establish "S" Time for period 3/25/04 to re-assignment.

Committee Action: BASED ON THE ABOVE NOTED INFORMATION ICC ACTS TO RETAIN SUBJECT AD/SEG STATUS, REFER THE CASE TO CSR RECOMMENDING AD/SEG 90 DAY AD/SEG EXTENSION PEND NON-ADVERSE TX, ENEMY CONCERNS W/WHITE I/M POPULATION, ISOLATED TO CMF AND ICC REVIEW. ESTABLISH CUSTODY TO MAX R, WG/PG D1/D, EFF. 3/25/04 AND ASSIGN SMALL MANAGEMENT YARD. RX UPON TX MED AR, "S" TIME FOR PERIOD 3/25/04 TO RE-ASSIGNMENT, A1/A EFF. 5/23/02, ADVISED BEHAVIORAL PROGRAM EXPECTATIONS WHILE HOUSED IN AD/SEG.

Case Factors: Per CDC 128G dated 5/23/02. CDC 812: Noted for an enemy, reviewed and updated. Confidential File: Noted, reviewed and updated. TB Code: 22, per CDC 128C dated 5/02/03.

DOUBLE/SINGLE CELL REVIEW: Committee notes that subject meets double cell status based upon review of the Central File, which reflects no in cell violence or predatory behavior, however subject will be single celled while housed in CMF AD/SEG.

YARD REVIEW: Committee acts to assign subject to small management yard. Subject was advised of behavioral and program expectations while housed in CMF AD/SEG.

INMATES PARTICIPATION: Subject participated during today's committee, understood, and agreed with the committee action. Subject has been advised of his rights to appeal. Subject's next scheduled committee is 6/04.

J. BAUTISTA
CORRECTIONAL COUNSELOR II

S. O'RAN
CHIEF DEPUTY WARDEN (A)

COMMITTEE RECORDER: J. BAUTISTA, CCII **CHAIRPERSON:** S. O'RAN, CDW (A)
COMMITTEE MEMBERS: J. MENDOZA, FC G. DEMARS, SGT. K. CARROLL, SGT.
CLINICIAN: R. GARDNER, LCSW **ACADEMIC:** R. RODDOCKER, **TEACHER S/A:** T. FORSYTHE, C/O

DATE: 4/01/04 UNIT: III CLASSIFICATION: Initial Ad Seg/Annual Rev. -ICC CMF:JB/jb

State of California

Department of Corrections

CDC 128-G

No. T-43446

NAME: GORTON, C

Comment: SCC-III endorsed. CS = 43.

Requested institutions are not currently available. Placement is based on the availability of institutional programs and housing per PC 5068. Inmate requires CCCMS level of MHSDS care. CDC 128-C of 10-21-03 is noted. Inmate is NCF per CDC 128-C2 of 2-7-02. TB Code is 22. CDC 812 is noted. Confidential file is noted.

Retention in ASU is approved pending transfer. This transfer approval expires 8/18/2004 and will require return to CSR for re-authorization.


D. Oftedahl, CSR

Date: 4/20/2004

Classification - CSR ACTION

CMF

4/27/04

TO: Asst. Warden Crawford

FR: I/M Gorton T-43446 (EXHIBIT - C2)

Subj: Institutional Transfer to SEC. - III
Attach: 602 4/27/04

Dear Asst Warden Crawford,

I am writing you to express my sever concern for my personal safety. You may be aware that my life has been threatened and I have been attacked on three separate occasions from the white skin head gang, because I refused to demand a black Christian brother to leave my table. Additionally, because I refuse to defend myself the white they demanded to see my paperwork. They have threatened that no matter where I go they will continue to attack me because, they say, "I disrespected their race."

Since I've been in prison my life has been threatened with grave bodily injury because I refuse to show my paperwork. That was why I was put into Ad Seg at Centinella and was one of the reasons I decided to end my life.

I have dedicated my prison life to exercising I have treated all inmates with the utmost respect.

I am writing you to express my severe concerns for my personal safety. You may be aware that my life has been threatened and I have been attacked on three separate occasions from the white skin-head gang, because I refused to demand a black Christian brother to leave my table. Additionally, because I refuse to defend myself the white have demanded to see my paperwork. They have threatened that no matter where I go they will continue to attack me because, they say, "I disrespected their race."

Since I've been in prison my life has been threatened with grave bodily injury because I refuse to show my paperwork. That was why I was put into Ad Seg at Centinella and was one of the reasons I decided to end my life.

I have dedicated my prison life to ensuring I have treated all inmates with the utmost respect. It was not my fault that the 60 yr old black inmate decided to sit at my table in the white area; I did not invite him. I have also dedicated my inmate life to making sure I am a model prisoner, with the highest regards & respect for all staff members.

When I was informed I was being transferred to either CMC-E or Mill Creek, I was

felt glad because I know that there is very little politics at those prisons. I felt like I was being rewarded for my good behavior and because I have a huge need to be sent to a sensitive needs Prison / yard.

Warden Crawford, I met you while I was at DMH-#3. You helped me greatly when I was there. I am now in need of your help again.

I am in dire fear for my life and I feel this change to transfer me to sec 30 (Jame Town) will place me in a life threatening situation one that I can not beat.

I am a good inmate and have worked very hard on my mental issues. I formally request that my transfer to sec 30 be long all that because of threats by the white gang and of sex crime with my daughter, please beg for mercy, send me to a sensitive needs prison, so that I can be able to progress.

also I mention this now because I was afraid, but I have disclosed my crime to 2 inmates who I thought were my friends. I needed someone to talk to, so much I thought I could trust. The first inmate is Stephen Perwell who lives in the woods. The second inmate Rondell (willy) ? who was my cellie in H-213 when I was rolled up on 3/25/04.

My cellie Rondell was with me when I was attacked at the Chow hall on 3/18/04. Now I believe

I am a good inmate and have worked very hard on my mental issues. I formally request that my transfer to sec 23 be long and that because of threats by the white gang and my sex crime with my daughter, please beg for mercy, send me to a sensitive male prison, so that I can be able to progress.

also I mention this now because I was afraid, but I have divulged my crime to inmates who I thought were my friends. I needed someone to talk to, someone I thought I could trust. The first inmate is Stephen Powell who lives in the mood. The second inmate Randall (willy) ? who was my cellie in H 213 when I was rolled up on 3/25/04.

My cellie Randall was with me when I was attacked at the chow hall on 3/15/04. Now I believe that this attack could be related have been a set up because inmate Randall quickly got up from the table just before I was attacked.
Please help protect my life.

(EXHIBIT - H)

DISTRIBUTION:
WHITE - CENTRAL FILE
BLUE - INMATE (2ND COPY)
GREEN - ASU
CANARY - WARDEN
PINK - HEALTH CARE MGR
GOLDENROD - INMATE (1ST COPY)

INMATE'S NAME GORTON 2T-208 CDC NUMBER T-43446

REASON(S) FOR PLACEMENT (PART A)

- ☒ PRESENTS AN IMMEDIATE THREAT TO THE SAFETY OF SELF OR OTHERS
☐ JEOPARDIZES INTEGRITY OF AN INVESTIGATION OF ALLEGED SERIOUS MISCONDUCT OR CRIMINAL ACTIVITY
☒ ENDANGERS INSTITUTION SECURITY ☐ UPON RELEASE FROM SEGREGATION, NO BED AVAILABLE IN GENERAL POPULATION

DESCRIPTION OF CIRCUMSTANCES WHICH SUPPORT THE REASON(S) FOR PLACEMENT:

On Thursday, May 13, 2004, at about 1815 hours, you inmate GORTON, T-43446, RRZZ, were battered by inmate PINA, T-44230, 8T-16U, inside Building #6 custody office. For this reason, you are deemed a threat to the safety and security of this institution. You are being placed into Administrative Segregation, Held Pending Classification Review (HPCR). If it is determined that an enemy situation or a security concern exists, Institution Classification Committee (ICC) may retain you pending transfer to appropriate housing consistent with your case factors and security requirements. Your case will be reviewed by appropriate staff as soon as practical.

☐ CONTINUED ON ATTACHED PAGE (CHECK IF ADDITIONAL) ☐ IF CONFIDENTIAL INFORMATION USED, DATE OF DISCLOSURE: / /

DATE OF ASU PLACEMENT 5/13/04 SEGREGATION AUTHORITY'S PRINTED NAME D. Espinosa SIGNATURE [Signature] TITLE Lieutenant
DATE NOTICE SERVED 5-13-04 TIME SERVED 2140 PRINTED NAME OF STAFF SERVING ASU PLACEMENT NOTICE E. BURNS SIGNATURE [Signature] STAFF'S TITLE C/O

☐ INMATE REFUSED TO SIGN INMATE SIGNATURE [Signature] CDC NUMBER T-43446

ADMINISTRATIVE REVIEW (PART B)

The following to be completed during the initial administrative review by Captain or higher by the first working day following placement

STAFF ASSISTANT (SA)

INVESTIGATIVE EMPLOYEE (IE)

STAFF ASSISTANT'S NAME Hope TITLE C/O INVESTIGATIVE EMPLOYEE'S NAME TITLE

IS THIS INMATE:

LITERATE? ☒ YES ☐ NO EVIDENCE COLLECTION BY IE UNNECESSARY ☒ YES ☐ NO
FLUENT IN ENGLISH? ☒ YES ☐ NO DECLINED ANY INVESTIGATIVE EMPLOYEE ☒ YES ☐ NO
ABLE TO COMPREHEND ISSUES? ☒ YES ☐ NO ASU PLACEMENT IS FOR DISCIPLINARY REASONS ☒ YES ☐ NO
FREE OF MENTAL HEALTH SERVICES DELIVERY SYSTEM NEEDS? ☒ YES ☐ NO DECLINED 1ST INVESTIGATIVE EMPLOYEE ASSIGNED ☒ YES ☐ NO
DECLINING FIRST STAFF ASSISTANT ASSIGNED? ☐ YES

Any "NO" requires SA assignment

Any "NO" may require IE assignment

☐ NOT ASSIGNED

☒ NOT ASSIGNED

INMATE WAIVERS

☐ INMATE WAIVES OR DECLINES INTERVIEW WITH ADMINISTRATIVE REVIEWER ☒ INMATE WAIVES RIGHT TO 72 HOURS PREPARATION TIME

☐ NO WITNESSES REQUESTED BY INMATE INMATE SIGNATURE [Signature] DATE

WITNESSES REQUESTED FOR HEARING

WITNESS NAME	TITLE/CDC NUMBER	WITNESS NAME	TITLE/CDC NUMBER
WITNESS NAME	TITLE/CDC NUMBER	WITNESS NAME	TITLE/CDC NUMBER

DECISION: ☐ RELEASE TO UNIT/FACILITY ☐ RETAIN PENDING ICC REVIEW ☒ DOUBLE CELL ☐ SINGLE CELL PENDING ICC

REASON FOR DECISION:

Retain As Threat - released

ADMINISTRATIVE REVIEWER'S PRINTED NAME [Signature] TITLE FC DATE OF REVIEW 5/14/04 ADMINISTRATIVE REVIEWER'S SIGNATURE [Signature]
CORRECTIONAL ADMINISTRATOR'S PRINTED NAME (if necessary) CORRECTIONAL ADMINISTRATOR'S CO-SIGNATURE (if necessary) DATE OF REVIEW

INMATE/PAROLEE
APPEAL FORM
CDC 802 (12/87)

JUN 21 2004

MAY 23 2004

Location: Institution/Parole Region

Log No.

Category

1. GCC

1. 04-00670

XI

2.

You may appeal any policy, action or decision which has a significant adverse effect on you, with the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions. You must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action will be taken. If you are not satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME: GORTON C. NUMBER: T43446 ASSIGNMENT: AD-SEG TRANS. UNIT/ROOM NUMBER: 21102

A. Describe Problem:

I have been prescribed to wear custom made leather orthotics & custom 1/4" lift boots. Both Chronos are in my medical file from my CME Podiatrist. SONO 5/21/04 (SCOTT, Ad-Seg Sgt has denied my request to allow me to wear these items. NOTE: my leather orthotics are located in my ad-seg property inside my white tennis shoes. But CME R&R threw

If you need more space, attach one additional sheet.

B. Action Requested:

I request authorization to wear my orthotics & shoes, even while in AD-SEG. And to replace my state provided 1/4" lift soft sole boots or transfer me immediately to S&Y Prison preferably.

Inmate/Parolee Signature: Charles R. Gorton

Date Submitted: 5/22/04

C. INFORMAL LEVEL (Date Received: 6-15-04)

Staff Response: Denied.

Due to safety and security requirements, personal shoes are not authorized in administrative segregation. Contact CME R&R regarding replacement of your personal boots.

Staff Signature: [Signature]

Date Returned to Inmate: 6-15-04

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128; etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

My feet and calves have constant pain from being on my feet for exercise in my cell and on the yard. I have had this condition for over 10 years and have been prescribed orthotics & custom boots. It is wrong for me to have to suffer.

Signature: Charles R. Gorton

Date Submitted: 6/18/04

Note: Property/Funds appeals must be accompanied by a completed

CDC Appeal Number:

Board of Control form BC-1E, Inmate Claim

First Level ☐ Granted ☐ P. Granted ☒ Denied ☐ Other

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: JUN 21 2004 Due Date: AUG 9 2004

Interviewed by: R. Kirkland LV

Staff Signature: [Signature] Title: 20 Date Completed: 7-4-04
 Division Head Approved: [Signature] Title: [Signature] Returned: JUL 12 2004
 Signature: _____ Date to Inmate: _____

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

AS STATED PREVIOUSLY, DR. STEVERS, AT CMF, RENEWED MY CHRONO FOR MY
PROTHETICS ON 3/25/04. THESE PROSTHETICS WERE PURCHASED FROM MY PODTRIST OUT-
DE AND SENT TO CMF WHICH I HAVE HAD IN MY POSSESSION SINCE AND UP TO
ENIG ADMITTED INTO SCC AD-SEG ON 5/13/04 AND ARE CURRENTLY (cont)

Signature: _____ Date Submitted: _____

Second Level ☐ Granted ☒ P. Granted ☐ Denied ☐ Other

G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: JUL 20 2004 Due Date: 8-16-04

☒ See Attached Letter

Signature: [Signature] Date Completed: 8-17-04
 Warden/Superintendent Signature: [Signature] Date Returned to Inmate: SEP 20 2004

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

Signature: _____ Date Submitted: _____

For the Director's Review, submit all documents to: Director of Corrections
 P.O. Box 942883
 Sacramento, CA 94283-0001
 Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION: ☐ Granted ☐ P. Granted ☐ Denied ☐ Other
☐ See Attached Letter

(EXHIBIT - 12)

(PART-A) LIFT, SOFT SOLE BOOT. THEREFORE THE ONLY SHOES AVAILABLE TO HOLD MY ORTHODICS ARE MY TENNIS SHOES.

I WAS PRESCRIBED PROSTHETIC ORTHODICS 3 YEARS PRIOR TO COMING TO PRISON, BY DR. VOLT, PODIATRIST, RIVERSIDE CA, BECAUSE I SUFFER FROM A MEDICAL CONDITION THAT CAUSES CHRONIC PAIN TO MY FEET AND LEGS, WHEN I AM ON MY FEET. THEREFORE I MUST WEAR ORTHODICS TO PREVENT THIS PAIN AND POSSIBLE FURTHER INJURY. THESE LEATHER ORTHODICS WERE PURCHASED AND CUSTOM MADE PRIOR TO MY INCARCERATION AND WERE SHIPPED DIRECTLY TO CMF MEDICAL.

FOR SCC AD-SEG TO WITHHOLD THESE NEEDED MEDICAL PROSTHETICS ^{FROM} FOR MY USE, I CONSIDER CRUEL AND UNUSUAL PUNISHMENT, WITH DELIBERATE INDIFFERENCE UNDER COLOR OF STATE LAW, SINCE I SUFFER DAILY FROM CONSTANT PAIN.

(PART-B) CONTINUED: CMC OR LANCASTER, SO I CAN HAVE VISITS FROM MY FAMILY. SINCE SCC IS REFUSING ME THE USE OF MY PROSTHETICS, THIS TRANSFER WILL ENABLE NORMAL PROGRAMMING AND USE OF THEM.

(PART-F) IN MY PROPERTY. BUT LT. KIRKLAND HAS ~~THAT~~ INSINuated THAT THEY HAVE BEEN CONFISCATED, ^{STATING} MY CHRONO HAS EXPIRED ON 6/15/04 AND ALSO STATING, IT IS INCUMBENT UPON YOU TO HAVE SCC MEDICAL EVALUATE THIS NEED, DOCUMENT IT, PRESCRIBE AND POSSIBLY PURCHASE PROSTHETICS RELEVANT TO YOUR NEEDS.

IF LT. KIRKLAND, BY DIRECTION OF ASSOCIATE WARDEN F.X. CHAVEZ, HAS ORDERED THE CONFISCATION OF MY ORTHODICS, I WILL CONSIDER THIS ACTION AS

(EXHIBIT - 13)

CRUEL AND RECKLESS, WITH DELIBERATE INDIFFERENCE UNDER ^{COLOR OF} ~~STATE LA~~ STATE LAW, AND WILL HOLD THEM RESPONSIBLE FOR THEIR REPLACEMENT.

ALSO, ON 3/25/04, DR. STEANERS, CMF, DID RENEW BOTH CHRONOS FOR THE USE OF ORTHODICS AND CUSTOM MADE STATE BOOTS. I WATCHED HIM DOCUMENT THIS IN MY MEDICAL RECORDS AND THEN PHONE ORDER THE CHRONO HARD COPY.

ON, 7/2/04, DR. WITWER, SCC-MEDICAL, EVALUATED MY NEED FOR ORTHODICS. DR. WITWER WAS THEN INSTRUCTED BY SCC/AD-SEG CQ; THAT ORTHODICS WERE NOT ALLOWED. DR. WITWER THEN PRESCRIBED INSTEP CUSHIONS AS AN ALTERNATIVE.

ON, 7/3/04, I WAS INFORMED BY THE AM-MTA THAT AD-SEG CUSTODY REFUSED ISSUANCE OF THESE ALSO. THEREFORE, I HAVE TAKEN IT UPON MYSELF TO MAKE EVERY POSSIBLE EFFORT, SINCE 5/21/04, TO OBTAIN PROPER AUTHORIZATION TO USE MY PROSTHETICS, AS DIRECTED BY LT. KIRKLAND. BUT STILL, SCC AD-SEG, LT. KIRKLAND & A/IO CHAVEZ ^{HAVE} ~~ARE~~ DELIBERATELY IGNORED MY MEDICAL NEED. I STILL CONSIDER THESE ACTIONS AS CRUEL AND UNUSUAL PUNISHMENT, CONSIDERING THE FACT THAT I'VE BEEN PLACED IN AD-SEG UNDER NON-ADVERSE REASONS.

State of California

Department of Corrections

Memorandum

(EXHIBIT - 14)

Date: July 4, 2004

To: C. GORTON
Inmate
T43446
2T121

From: Sierra Conservation Center, Jamestown, CA 95327

Subject: SCC APPEAL LOG #SCC-04-00670 FIRST LEVEL

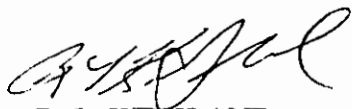
APPEAL DECISION: DENIED.

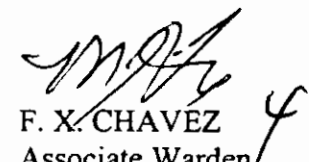
APPEAL ISSUE: You contend that prior to your arrival California Medical Facility (CMF) retained your state issued ¼" lift soft sole boots. You further assert that you have prescription orthotics in your personal property and are requesting they be issued along with your personal tennis shoes. You said that you pace your cell and perform exercise in the cell and this causes pain to your feet. You are requesting to have your orthotics and tennis shoes issued to you in the ASU, the replacement of the state issued soft boot with ¼" lift, and immediate transfer to a Special Needs Prison (SNY).

APPEAL RESPONSE: On Sunday July 4, 2004, I interviewed you regarding these matters. I explained that the Institutional Classification Committee has addressed your request for a SNY. If you have medically necessary needs that must be adhered to while you are in the ASU, then it is incumbent upon you to have SCC medical evaluate this need, document it, prescribe and possibly purchase prosthetics relevant to your needs. Medical checked your file and there is no current or updated authorization for special medical needs.

Based the lack of medical authorization your appeal is denied. A copy of this appeal will be provided to the medical department.

If you are dissatisfied with this decision, you may appeal to the next level by following the instructions on your appeal form.


R. L. KIRKLAND
Correctional Lieutenant
Administrative Segregation


F. X. CHAVEZ
Associate Warden
Tuolumne Division

cc: Central File
Appeals File

Memorandum

(EXHIBIT - I5)

Date: September 17, 2004

To : Inmate Gorton
T-43446
Lancaster

From : Sierra Conservation Center, Jamestown, CA 95327

Subject : SCC APPEAL LOG #SCC-X-04-00670
SECOND LEVEL RESPONSE

APPEAL DECISION: Partially granted.

APPEAL ISSUE: You are appealing administrative segregation's refusal to issue personal tennis shoes and orthotics to you while housed in ASU. You are also requesting an immediate transfer to a Special Needs Yard.

APPEAL RESPONSE: Your appeal and attachments have been reviewed. R. Kirkland, Correctional Lieutenant, interviewed you on July 4, 2004 regarding this appeal.

You were informed at the informal and first level responses that these items are not allowed while housed in ASU. Operational Procedures #002 and #017 are very specific regarding allowable items during incarceration in Administrative Segregation. During the investigation of this appeal, you were transferred to Lancaster SNY. Medical staff at Lancaster will be notified of your request for special shoes and they will make the determination of your needs.

Inmate Gorton is not on the TABE 4.0 or Learning Disability Lists.

Therefore, based on the above information, your appeal is **partially granted** at the second level. This is based on your transfer to a Special Needs Yard.

If you are dissatisfied with this decision, you may apply to the Third Level by following the instructions on the back of your appeal form.



S. W. ORNOSKI
Chief Deputy Warden

cc: Appeals File
Central File
Lancaster Medical

PROOF OF SERVICE BY MAIL
[C. C. P. 1013. 2015. ;28 U. S. C. 1746]

STATE OF CALIFORNIA)

)

SS: CV F-05-0354 REC DLB P

COUNTY OF LOS ANGELES)

I (A) Charles R. Gorton, am a resident of California State Prison-Los Angeles County (LAC) at Lancaster, County of Los Angeles, California, and I am at least 18 years of age. My mailing address is California State Prison-Los Angeles County, Facility B, Bldg. 5, Bed 144, P. O. Box 8457, Lancaster, California 93539.

On (B) October 2, 2005, 20__, I served a true and correct copy of the following document (s);

(C) Amended Complaint
Motion for Discovery

On each party listed below by placing it in an envelope, with adequate postage or provided, and by depositing said envelope in a box for the United States Mail at LAC, 44750 60th Street West Lancaster, California 93536.

Each party to the action has been duly served.

This copy is being mailed to (D): Office of the Clerk
United States District Court
Eastern District of California
1130 "O" Street, Room 5000

I have mailed additional copies to (D): Fresno, CA 93721

There is regular delivery service by the United States Mail between the above place of mailing and the parties listed.

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated (E): October 2, 2005, 20__, at Lancaster, California 93536.

Signed: Charles R. Gorton CDC#: T-43446

LAC MAILROOM ACKNOWLEDGEMENT OF MAILING

DATED: 10/2/05
SIGNED: [Signature]